IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTIETH DAY OF JANUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE R.SUBHASH REDDY

WRIT PETITION NO : 7880 of 1995

Between:

1 Maddala Pulla Rao s/o late Veeraswamy
R/o Dondapudi, (PO), Gopalapuram Mandal, West Godavari District.
2 Maddala Penta Rao s/o. Veeraswamy
R/o Dondapudi, (PO), Gopalapuram Mandal, West Godavari District.

..... PETITIONERS

AND

1 The Secretary to Government, Social Welfare

(F) Department Secretariat buildings, Hyderabad.
2 Agent to the Government, West Godavari District,

(Collector, West Godavari) at Eluru.
3 Special Deputy Collector (Tribal Welfare), West Godavari at Eluru.
4 Special Deputy Tahsildar (Tribal Welfare No.II) West Godavari at Eluru.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to call for the records connected with G.O.Rt.No.185, dt. 22-3-1995 from the Social Welfare (F) Department, Hyderabad and quash the same by the issuance of any appropriate writ, order or direction more particularly one in the nature of a writ of certiorari

Counsel for the Petitioner: MR.A.RANGACHARYULU

Counsel for the Respondents: GP FOR SOCIAL WELFARE

The Court made the following:

ORDER:

This writ petition is filed questioning the order dated 22.03.1995 passed by the revisional authority in G.O.Rt.No.185, in exercise of powers conferred under A.P. (Scheduled Areas) Land Transfer Regulations 1 of 1959, (for short 'Regulation'), confirming the order of eviction dated 21.08.1984 passed by the appellate authority- Agent to the Government as well as the order passed by the Primary authority - Special Deputy Collector, Tribal Welfare, Eluru, dated 28.02.1983.

It is the case of the petitioner that though proceedings were initiated with regard to several survey numbers, ultimately by an order dated 28.02.1983, the Special Deputy Collector passed an order of eviction with regard to item No.1 covered by patta No 4 (B), paimaish No.13 for a land admeasuring about Ac.6-00 cents. So far this piece of land is concerned, it is the case of the petitioner that he has purchased the said land from a non-tribal under a registered sale deed dated 04.07.1967. Further, it is stated that though he had taken the defence before the primary authority that the land was transferred from a hill-tribe to a non-hill tribe before the Regulation 1 of 1917 came into force, but the primary authority rejected the said defence basing on an entry made in the adangal of the year 1942 and passed the order of eviction. The petitioners carried the matter in appeal

before the Agent to the Government and the same was rejected by an order dated 21.08.1984. Further, the matter was carried in revision before the Government as provided under the Regulation, and before the revisional authority a certified copy of the document No.517/1917 dated 23.07.1917, in which the hill-tribe had transferred the land at the first instance to a non-hill tribe, along with other documents which are document No.341/1920 dated 03.06.1920, document No.235/1920 dated 20.05.1924 and a xerox copy of the document No.328/1967 dated 01.05.1967 was filed. The said documentary evidence was filed before the revisional authority to show that transfer with regard to item No.1 of the petition-schedule properties was not hit by the Regulation 1 of 1917 because at the first instance, the transfer of land from a hill-tribe to a non-hill tribe was made before the Regulation 1 of 1917 came into force. The revisional authority without referring to the documents filed before it, simply relied on the entry made in the adangal of the year 1942, and rejected the revision petition confirming the order of eviction passed by the Special Deputy Collector, Eluru.

Though the writ petition is of the year 1995, no counter-affidavit is filed on behalf of the respondents and moreover the petitioners herein have filed documentary evidence i.e., the registered sale deeds to show that at the first instance the transfer of land from a hill-tribe to non-hill tribe was effected prior to Regulation 1 of 1917 came into force. Admittedly, the said documentary evidence was not filed before the primary authority. Subsequently, in spite of filing the said documents before the revisional authority, no reference was made by the revisional authority with regard to the documentary evidence filed by the revision petitioners.

Inasmuch as all the documents which the petitioners seek to rely are the registered sale deeds right from the year 1917 onwards, I deem it appropriate that it is evidently a fit case to give opportunity to the petitioners to adduce the said documentary evidence before the primary authority to show that the transfer effected with regard to item No.1 of the petition-schedule properties is not in violation of

provisions either under Regulation 1 of 1917 or Regulation 1 of 1959 and its amendments. In that view of the matter, the order of eviction passed by the Special Deputy Collector as confirmed by the appellate and revisional authority is set-aside and the matter is remitted to the Primary authority- Special Deputy Collector, Eluru, to examine the validity of the sale deed with regard to item No.1 and pass appropriate orders afresh. It is open for the petitioners to produce all the documentary evidence before the primary authority i.e. the Special Deputy Collector, Eluru. On such production, the Primary authority-the Special Deputy Collector, Eluru, shall consider the said documentary evidence as to whether the said transfer is in violation of provisions of Regulation 1 of 1917 and Regulation 1 of 1959 and its amendments and dispose of the same in accordance with law.

The writ petition is allowed to the extent indicated above. No order as to costs.

_____ R.SUBHASH REDDY, J

20.01.2005

DR

That Rule nisi has been made absolute.

Witness the Hon’ble Sri Devinder Gupta, the Chief Justice, on this Thursday, the twentieth day of January, Two thousand and five.

To

1 The Secretary to Government, Social Welfare

(F) Department Secretariat buildings, Hyderabad.
2 Agent to the Government, West Godavari District,

(Collector, West Godavari) at Eluru.
3 Special Deputy Collector (Tribal Welfare), West Godavari at Eluru.
4 Special Deputy Tahsildar (Tribal Welfare No.II) West Godavari at Eluru.

5 2CCs to Government Pleader for Social Welfare, High Court

Buildings, Hyderabad. (OUT)

6 2CD copies